

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3324 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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AVDHESHKUMAR HARIHARNATH DUBE

Versus

STATE OF GUJARAT

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Appearance:

MR ANSHIN H DESAI for Petitioner  
Mr.V.B.Gharania, learned A.G.P.  
for Respondents Nos. 1 & 3.  
MS SEJAL K MANDAVIA for Respondent No. 2  
Mr.Vimal Patel for  
NANAVATI ASSOCIATES appeared for  
Respondent No. 4 (He has filed sick note)

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 17/12/1999

ORAL JUDGEMENT

1. Through this petition, the petitioner seeks the relief in the matter of pension on the basis of the Government Resolution dt.23.8.73 filed with the petition

as Annexure 'A'. This claim of the petitioner for getting the benefit of this Resolution has been resisted on the ground that the petitioner cannot claim the benefit of this Resolution as he had not been selected by District Education Committee when it met in the year 1989 and that the petitioner had already retired in the year 1993.

2. I have considered the pleadings of the parties in the petition, replies filed on behalf of respondents Nos.1 and 3 and the reply filed on behalf of respondent No.2 as also an affidavit dt.7.12.99 filed by respondent No.4.

3. The case of the respondents is that the facts, on which petitioner is placing reliance now with regard to his working in Vikas Gruh prior to his appointment in the year 1964 in the Ashram Shala, had not been placed by the petitioner himself before the Staff Selection Committee when it met in the year 1989 and, therefore, the Staff Selection Committee found the petitioner to be over aged as he had already crossed the age of 28 years in 1964. The petitioner's date of birth is in 1935 and, therefore, admittedly he was more than 28 years in 1964. On 11.11.98 when the matter came up before the court and Rule was issued, it was submitted on behalf of the learned counsel for respondent No.2 i.e. District Primary Education Officer of the District Education Committee, District Panchayat, Junagadh that with regard to the period of his working in the Vikas Gruh prior to his appointment in Ashram Shala no records are available with respondent No.2 to verify the same. Thereafter, Manager/Principal of Vikas Gruh, Paldi at Ahmedabd was impleaded as respondent No.4. On behalf of respondent No.4 an affidavit dated 7.12.99 has been filed wherein it has been stated that the petitioner was appointed with the respondent No.4 on 1.4.57 as a teacher. On this basis, learned counsel for the petitioner has submitted that had the date of his entry in service, as aforesaid, been taken into consideration, he would have been found to be within age limit for the purpose of selection by the Staff Selection Committee so as to have a lien in the District Education Committee and in that case he would be eligible to take the benefit of Government Resolution of 1973 for the purpose of pension on account of services rendered by him prior to 1964. Learned counsel for respondents Nos.1 to 3 have, therefore, submitted that the concerned Staff Selection Committee had no material to consider these aspects of the matter.

4. In the facts and circumstances of this case, it

is directed that the petitioner may place all the relevant details even now before the concerned authority i.e. District Education Committee of District Panchayat, Junagadh and thereupon the matter may be re-considered by the concerned Committee again in the light of the facts, which may be placed on record by the petitioner so as to claim the benefit of the Government Resolution dt.23.8.73. It will also be open for the Committee to consider as to whether the petitioner's working in the Vikas Gruh should be treated to be at par with the working in the Ashram Shala. Should the petitioner furnish such details alongwith the proper representation before the District Primary Education Officer in the office of the District Education Committee, District Panchayat, Junagadh within a period of 15 days from today, the respondent No.2 shall get the matter considered by the concerned Committee within a period of three months thereafter and appropriate orders shall be issued and conveyed to the petitioner as per the report of the Committee. This Special Civil Application is, therefore, partly allowed and the rule is made absolute to the above extent only. No order as to costs. Direct service is permitted.